

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON  
JUNE 1998 SESSION

**FILED**

June 15, 1998

Cecil Crowson, Jr.  
Appellate Court Clerk

**EDDIE JOE MANN,**

Appellant,

V.

**STATE OF TENNESSEE,**

Appellee.

)  
) C.C.A. No. 02C01-9707-CC-00240  
)  
) Dyer County  
)  
) Honorable Lee Moore, Judge  
)  
) (Post-Conviction)  
)  
)

FOR THE APPELLANT:

Greg Alford  
Attorney at Law  
108 W. Court Street, Suite 21  
Dyersburg, TN 38024

FOR THE APPELLEE:

John Knox Walkup  
Attorney General & Reporter

Marvin E. Clements, Jr.  
Assistant Attorney General  
Criminal Justice Division  
Cordell Hull Building, 2nd Floor  
425 Fifth Avenue North  
Nashville, TN 37243

C. Phillip Bivens  
District Attorney General  
115 Market Street East  
Dyersburg, TN 38024

OPINION FILED: \_\_\_\_\_

**AFFIRMED**

**PAUL G. SUMMERS,**  
Judge

## OPINION

The petitioner, Eddie Joe Mann, was convicted by a jury of theft under \$500. Our Court affirmed his conviction and sentence. State v. Eddie Joe Mann, No. 02C01-9512-CC-00395 (filed at Jackson, January 16, 1997). He filed a post-conviction relief petition alleging ineffective assistance of counsel at both the trial and appellate levels. The hearing court denied relief. Petitioner appealed to this Court. Oral argument was heard on June 2, 1998.

We have reviewed this record and our opinion on direct appeal. We take note of the lengthy and comprehensive order filed by the Honorable Lee Moore, post-conviction judge, which details the facts and issues gleaned at the hearing. We take the liberty of incorporating by reference this order because of its accuracy and thoroughness. We appreciate findings and conclusions such as these when we review appellate records.

To be entitled to relief based on a claim of ineffective assistance of counsel, the petitioner must show that counsel's performance was deficient and that such deficiency prejudiced the defense. The burden rests on the petitioner to prove his allegations by clear and convincing evidence. Unless the evidence preponderates otherwise, the findings of the hearing court are conclusive on appeal. This petitioner has not demonstrated that the evidence preponderates against the hearing court's judgment.

The judgment denying relief is affirmed pursuant to Rule 20, Rules of the Court of Criminal Appeals of Tennessee.

PAUL G. SUMMERS, Judge

CONCUR:

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DAVID H. WELLES, Judge

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DAVID R. FARMER, Special Judge